

Court of Appeals, State of Michigan

ORDER

Kevin J Rieman v Kendall W Rieman

Docket No. **352197**

LC No. **19-030597-CK**

Michael F. Gadola, Judge, acting under MCR 7.211(E)(2), orders:

The motion to strike an exhibit from appellant's motion to remand is DENIED. Case law authority cited by appellee regarding an appellate court's review being limited to the record regards review of the merits of an appeal. In contrast, a basic purpose of the motion to remand procedure under MCR 7.211(C)(1) is to allow an appellant to file a motion to remand to seek to create an additional record as to factual matters in the trial court where appropriate. Indeed, MCR 7.211(C)(1)(a) requiring a party to support such a motion with an affidavit or offer of proof regarding the facts to be established at a hearing on remand makes clear that it is contemplated such a motion will refer to actual or alleged facts not already part of the lower court record. Whether a particular exhibit might properly be added to the record on remand is a matter that could properly be considered by a motion panel of this Court in deciding a motion to remand, but does not present a sound basis for striking the exhibit from the motion to remand and preventing the motion panel from even considering it.





A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

December 30, 2020

Date



Chief Clerk